

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Ana MARTIN-VILLALBA, et al.

Examiner: MCINTOSH III, TRAVISS C

Serial No.: 10/531,292

Group Art Unit: 1623

Filed: NOVEMBER 21, 2005

Confirmation No.: 4653

Title: **Method of manufacturing labelled oligonucleotide conjugates**

RESPONSE TO RESTRICTION REQUIREMENT

MAIL STOP AMENDMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In response to the Restriction/Election of Species Requirement dated October 1, 2008, Applicants hereby elect, with traverse, an anthracene label, as recited in present claim 2.

The Patent Office is courteously requested to reconsider the Election of Species Requirement, inasmuch as it is submitted that the entirety of the claimed subject matter possesses unity of invention under 37 C.F.R. §1.499. Insofar as the Office Action fails to provide any rationale as to why search/examination of anything *beyond* a single labeling species would constitute an undue burden, this nebulous requirement is without merit. "If search and examination of an entire application can be made without serious burden, the examiner *must* examine it on the merits, even though it includes claims to independent or distinct invention." (Emphasis added.) See, M.P.E.P. §803.

Furthermore, Applicant submits that the alternatives for the labeling species are generic to one another, since the common target structure and/or property thereof is evident to one of ordinary skill in the art.

Accordingly, it is respectfully submitted that the election of species requirement be withdrawn in its entirety. Favorable action is earnestly solicited.

The Commissioner is hereby authorized to charge any fees associated with this response to
Deposit Account No. 13-3402.

Respectfully submitted,

/Anthony J. Zelano/

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